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ABSTRACT

This publication details components of California's statewide plan for educating homeless children and youth. Revisions of the original plan were based on data derived from statewide surveys of school districts and shelters conducted in 1988, 1989, and 1990. The 1990 amendments to the Stewart B. McKinney Homeless Assistance Act of 1987 focus more on what is happening or should be happening locally to ensure that homeless children are able to attend and remain in school. A particular concern is the lack of awareness that prevents homeless children from receiving the same educational opportunities as their peers. Following the preface, the introduction describes the basis and purpose of The State Plan for Educating Homeless Children and Youth. The next five sections present information and recommendations for state- and local-level responsibilities. Information is presented on developing and implementing the plan; resolving disputes about placement; eliminating barriers to educating homeless children and youth; providing equal access to educational programs and services; and promoting, implementing, and monitoring the plan. Appendices contain the Stewart B. McKinney Homeless Assistance Act, a legal advisory on applying residency requirements to homeless children, and lists of advisory committee members for 1988-89 and 1990-91. (LMI)

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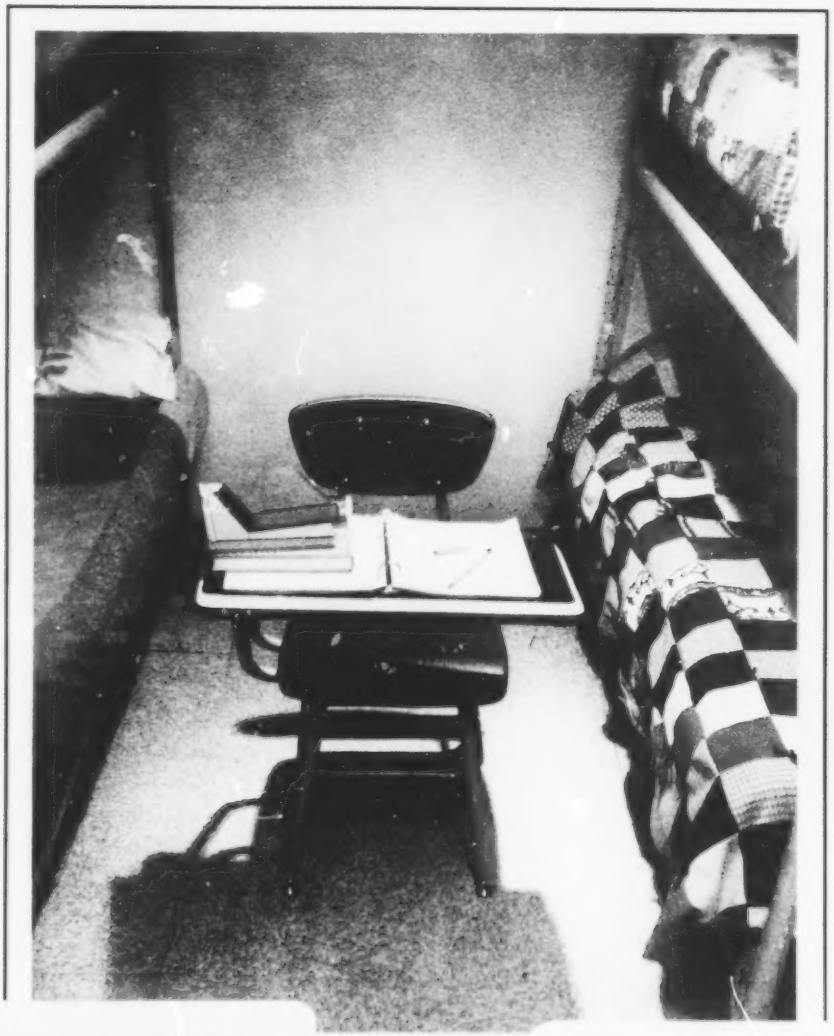
Hope for the Future

The State Plan for Educating Homeless Children and Youth



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Hope for the Future

The State Plan for Educating Homeless Children and Youth

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Foreword from California's State Superintendent of Public Instruction

Homeless children have the same needs as other children. They need compassion and acceptance. They need to feel that they belong and that they have a place in their community and school. And they need a good education so that they can reach their potential. Unlike children who have a home, however, homeless children must overcome many barriers in obtaining an education. They change schools frequently, and they face difficulties in transferring between schools and districts, meeting residency requirements, obtaining transportation to and from school, and finding a quiet place to study. Their nutrition and health care are inadequate, and they do not have access to facilities for showering or washing clothes.

Just as the children of homeless parents are not responsible for the barriers to obtaining an education, neither can they remove those barriers without the help of caring adults. However, before adults can help, they must understand the conditions resulting from homelessness.

Who are the homeless children and youth? Why are they homeless? Some are homeless because their parents lost their jobs or could not afford to move to another apartment when the building in which they lived was sold. Other children are homeless because their parents are substance abusers and cannot function well in society. Still other children and youth are homeless because they have been abused at home and chose to leave or were thrown out of their house by their parents. And a few are homeless because their parents choose that way of life.

Homeless children and youth live in the streets, in cars, in abandoned buildings or garages, or in temporary shelters. They live with

their parents or with friends or relatives for a while. Some may live on their own. Wherever and however they live, homeless children live a life of constant upheaval, with little privacy or security. They feel different and less worthy. They feel hopeless and fear that their lives are out of control.

With a good education, however, homeless children and youth can have hope for the future. The responsibility for providing that education is ours. If our educational reform efforts are to succeed, all children must have the right to a quality education, and we must work together to remove the barriers between homeless children and their education.

The plan described in this document reflects the beginning efforts in California. Our work will not be done until every homeless child or youth in this state can receive a quality education and become a fully functioning, productive, self-fulfilled member of society.

Preface

Hope for the Future: The State Plan for Educating Homeless Children and Youth was originally developed by members of the 1988-89 Advisory Committee for the Education of Homeless Children and Youth, who shared a common concern for the plight of these youngsters and worked diligently to develop a plan that would promote equal educational opportunities for each student. The committee members saw their task as twofold—to develop a plan that would raise the level of awareness of school and district personnel to the needs of homeless children and youth and to offer ideas and suggestions for meeting those needs.

The original edition of the state plan has been revised to reflect the 1990 amendments to the Stewart B. McKinney Homeless Assistance Act of 1987. The initial legislation focused on activities at the state level through (1) establishment of the position of Coordinator of Education of Homeless Children and Youth; (2) adoption of a state plan; (3) revision of state residency laws that might keep homeless students from attending school; and (4) collection of statewide data on the numbers and location of homeless children and youth.

However, the 1990 amendments are focused more on what is happening or should be happening locally to ensure that homeless children and youth are able to attend and remain in school. The reauthorization process gave education and homeless advocates an opportunity to express concerns about continuing barriers to providing homeless children with a "free, appropriate education." A particular concern is the lack of awareness on the part of educators, educational administrators, and members of the local community that prevents homeless children from receiving the same educational opportunities

as their peers. That concern is more pressing than the need for new laws or stricter enforcement of existing laws to ensure equal education for all children and youth.

The revised state plan also reflects the experiences of and the knowledge gained by educators and others throughout the state who have been providing services and support for homeless children and youth and their families. We hope that the experiences and suggestions of those trying to ensure equal educational opportunities for homeless children and youth will inspire others within the school community who are faced with the same responsibilities.

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Introduction to the State Plan

In July, 1987, Congress passed the Stewart B. McKinney Homeless Assistance Act. The Act was an omnibus bill designed to assist homeless individuals through providing such services as emergency shelters, health care, and job training. Subtitle VII-B of the Act specifically addressed the education of homeless children and youth. It required states to ensure that homeless children and youth "have access to a free, appropriate public education which would be provided to the children of a resident of the state and is consistent with the state school attendance laws." The Act further required that a state with a residency requirement as a component of its compulsory attendance laws must review and undertake steps to revise laws that prevent homeless children and youth from receiving a free and appropriate public education. States were also required to collect data about homeless children and youth and to develop a state plan for educating them.

In compliance with the law, the California Department of Education established a committee to advise the Department on the collection of data about homeless children and youth and to develop a plan to ensure full access to a free, appropriate public education. Members of the 1988-89 advisory committee included representatives from school districts, providers of public and private social services and shelters for homeless children and youth and their families, and advocacy groups from throughout California. The committee's goal was to develop a plan that would:

- Promote interagency cooperation at both state and local levels.
- Ensure equal access to school for all homeless children and youth.
- Promote quality education for all homeless children and youth and ensure equal access to special programs and services.

Basis of the State Plan

During the seven months in which the advisory committee worked together, a philosophy or set of beliefs about meeting the educational needs of homeless children and youth emerged. The committee made its recommendations on the basis of those beliefs. In addition, the beliefs were recognized by the State Board of Education as a guide to educators as they plan, with members of their communities, ways to meet the educational needs of the homeless children and youth within their districts. The set of beliefs is listed as follows:

- Every individual of school age has the right to an equal and appropriate education.
- Homeless children and youth have an equal right to a quality education.
- Homelessness is a transitional state. It lasts only until children have a home.
- Homeless children and youth are a subset of a larger category of children at risk.
- Adults must remove the barriers that are keeping children and youth out of school.
- Personnel in schools, school districts, and all other responsible agencies must work together to place and keep homeless children in school.
- Adults who work with homeless children and youth must be sensitive to their individual needs and conditions.
- Each school district should develop its own plan after considering a wide variety of options or strategies for meeting the individual needs of the homeless population.
- In planning how best to meet the needs of homeless children and youth, district and school personnel should review existing policies and procedures and expand, modify, or implement them as necessary.

Purpose of the State Plan

These beliefs are still valid and are the basis for this new edition of *The State Plan for Educating Homeless Children and Youth*. Like the original plan, this plan is designed to raise the level of awareness of personnel in schools and school districts to the needs of homeless children and youth and to offer ideas and suggestions for meeting those needs.

The plan is divided into five sections. Each section contains information and recommendations arranged according to responsibilities at the state and local levels. In addition, the appendixes include information that should be helpful to school and school district personnel as

they examine existing rules, regulations, policies, and procedures; modify them as necessary; and develop new policies and procedures to ensure that all homeless children and youth have full access to schools and the support they need to stay in school.

SECTION I

Developing and Implementing the Plan

In November, 1988, the California Department of Education sponsored a statewide survey of school districts and shelters serving homeless children and youth and their families. The purpose of the survey was to gather information about the number and location of homeless children and youth, the nature and extent of barriers to their education, and the difficulties in identifying their special needs. Similar surveys were conducted in 1989 and 1990. The findings of each of these surveys were used in the design and redesign of the state plan.

In the initial surveys family-related and school-related barriers to education were identified. Respondents in both school districts and shelters indicated that the greatest barriers to educating homeless children and youth were family-related. Family stress was identified as the most significant barrier and was followed closely by students being kept out of school to care for younger siblings, family resistance to school enrollment, student fatigue, and family moves from shelter to shelter.

Given the complexity of the family-related barriers to education and the lack of control over these barriers by school district personnel, it is apparent that no single agency, especially no school district, can solve these problems alone. They can be solved only through the joint efforts of state and local social service agencies, school districts, and schools. Consequently, *The State Plan for Educating Homeless Children and Youth* must be based on interagency support, communication, and coordination at both the state and local levels.

State-Level Development and Implementation

The California State Health and Welfare Agency, which is the lead agency for the implementation of the Stewart B. McKinney Homeless Assistance Act, coordinates all efforts designed to solve the problems of the homeless in the state. Representatives of all the state agencies involved in implementing the McKinney Act have formed a committee that meets regularly to share information and discuss problem-solving strategies. In adopting the state plan, the State Board of Education directed the Department of Education to work with that committee to establish a model for interagency coordination and communication at the local level.

The State Board also recommended that the Department continue to work with the Health and Welfare Agency and consider the development of a joint media campaign to educate the public about the important issues related to educating homeless children and youth. In addition to working with other governmental agencies, the Department of Education will continue to communicate and coordinate with agencies such as the California Homeless and Housing Coalition, HomeBase, and the California Working Group on the Homeless.

The State Coordinator of Education of Homeless Children and Youth is responsible for:

- Conducting a statewide survey every two years to identify the number of homeless children and youth enrolled in school and those not enrolled; the nature and extent of problems of access to and placement of homeless students in elementary and secondary schools; the difficulties in identifying the special needs of these students; and the progress made by state and local educational agencies in addressing such problems and difficulties
- Developing and carrying out the state plan
- Submitting a survey report to the U.S. Secretary of Education every other year
- Facilitating coordination between the California Department of Education and other statewide agencies providing services to homeless children and youth and their families
- Coordinating with other relevant educational programs, including preschool programs, and with the providers of services to homeless children and youth and their families, such as providers of shelters and youth centers, to improve comprehensive services for the homeless

In addition to fulfilling these responsibilities, the state coordinator will:

- Work with other divisions of the Department of Education and with other governmental agencies to review laws, regulations,

policies, and practices so that barriers to the enrollment, placement, and success of homeless children and youth in school can be eliminated.
- Work with county and district coordinators of homeless programs to develop and implement programs that will heighten the awareness of school personnel to the problems of homeless children and youth and ensure that students are neither stigmatized nor isolated because of homelessness.
- Monitor grant awards to county and district educational agencies.

Local-Level Development and Coordination

Initially, the State Board of Education recommended a two-tiered approach to educating homeless children whereby an interagency committee would be established at the county level and a coordinating committee at the district level. The Board recommended that the interagency committee act as adviser and advocate for children at risk. The committee would reflect the composition of the state-level committee and serve as a source of information and support for the state committee. Representatives from agencies and organizations conversant with the needs of homeless children and youth and their families with issues attendant to homelessness would be members of the committee.

With the implementation of the state plan in 1989, the state needed to promote some initiatives at the local level to heighten awareness of the needs of homeless children and youth among school personnel and to prompt an ongoing dialogue between the schools and the various agencies providing services to the homeless. Consequently, the Department of Education contracted with county offices of education and the two large school districts in the areas having the greatest number of homeless children and youth to begin this process and to ensure their enrollment, placement, and academic success. In each county or district the coordinator was able to join an existing coordinating group or establish one.

The responsibilities for county or district coordinators of the education of homeless children and youth are to:

- Coordinate areawide information and data gathering and dissemination activities to state and local agencies.
- Discuss the state plan with providers of emergency and transitional shelters and services for homeless children and youth, community action agencies, and other organizations likely to serve the homeless within the region and locality.

- Analyze the barriers preventing school access to homeless children and youth and work toward the development of strategies to eliminate the barriers.
- Analyze the elements of successful educational programs for homeless students and compile descriptions of these programs to share with regional school district personnel and others throughout the state.
- Assist in the education of homeless children and youth, using the state plan as a model.
- Prepare a local plan that:
  1. Identifies models specific to the region for outreach to homeless children and youth and their families
  2. Examines barriers encountered by homeless children and youth that prevent successful integration into a school program, describes the barriers in detail, and develops a plan to eliminate the barriers
  3. Identifies and describes the elements of successful programs, including outreach, cooperation with local agencies, and methods for establishing stability in schooling for transitional families and youth on their own
  4. Includes an in-service training program for school staff members to prepare them to respond supportively to the needs of homeless children and youth

The coordinating committee recommended by the State Board for each school district with homeless children was to act as advocate for children at risk. The members of the committee might include staff members of child welfare agencies and school attendance personnel; attendance review board members; social workers and counselors; teachers, including specialists (dropout-prevention specialists and others); and district and school administrators.

This team of district-level personnel should be responsible for:

- Establishing communication and coordination with other community groups that provide services to homeless children and youth and their families
- Working with community groups to remove the barriers that prevent homeless children and youth from attending and remaining in school

The appropriate members of this group should use a case management approach to families and children to:

- Identify and eliminate the barriers preventing students from enrolling in and attending school. The adults working with the children would ensure that (1) residency and immunization requirements are not barriers to enrollment; (2) the children have transportation to and from school; (3) they have equal access to all educational

services for which they are eligible; and (4) they have equal access to such benefits as meal service and before-school and after-school programs.

- Assist in the appropriate placement of children in regular on-site programs and off-site programs.
- Include, as part of the staff development program at each school, in-service training on the issues concerning the education of homeless children and youth, the specific needs of children at risk, and effective strategies for meeting those needs.
- Ensure that homeless children and youth are not stigmatized or isolated because they are homeless.

By establishing and maintaining ongoing communication with other agencies, the district coordinating committee will be able to reach out into the community, locate homeless children and youth, and begin the process of enrolling them in school. To ensure a system of communitywide communication and coordination, the committee should include representatives of social services, health and welfare, and housing agencies; advisory groups such as the mayor's task force; community development groups; local public, nonprofit groups such as United Way; and local businesses—in addition to school and school district personnel.

The solutions to the problems of educating homeless children and youth cannot be found through the solitary efforts of schools, social service agencies, or community groups. The solutions can be found only through the collective, coordinated, and dedicated efforts of all relevant agencies working together.

SECTION II

Resolving Disputes About Placement

The McKinney Act as amended includes provisions for (1) continuing to enroll homeless children or youth in the same school for the rest of the year in which they become homeless; or (2) enrolling homeless children or youth in the school located in the attendance area in which they are living. Placement is to be determined according to the best interest of the child or youth. In the determination of best interest, consideration must be given to a request by a parent regarding school selection. Recommendations for resolving disputes over placement may involve the Department of Education, the school district, the parent or guardian of the child, the homeless youth, or the applicable social worker. It is the responsibility of all involved to ensure that any disputes about placement are resolved.

State-Level Resolution

To determine and resolve complaints between school districts about placement of homeless children and youth, local and state agencies should use the interdistrict agreement procedures contained in *Education Code* sections 46600–46601 and 48204. These sections provide that the person having legal custody of a pupil be involved in decisions on interdistrict placement. Briefly, that person may request that the district of residence permit the pupil to attend school in another district. The district involved may have or may enter into an interdistrict attendance agreement. If the request is denied, the decision may be appealed to the appropriate county board of education.

Local-Level Resolution

The governing board of each school district should review existing procedures and criteria for resolving intradistrict and interdistrict complaints about placement of homeless children or youth. Provision must be made for prompt resolution of complaints and consideration of every request for placement made by someone having legal custody of a pupil.

The governing board of each district in which homeless children and youth reside should establish polices and procedures which ensure that homeless students have the same right as other students to (1) change schools if they have changed attendance areas; or
(2) continue in the same school if it is in their best interest, even though they have moved to a new attendance area.

In addition, the governing board should establish criteria for making decisions about student placement. In addition to addressing the right of homeless children and youth to equal access to quality education, the criteria should focus on:

- Continuity of the student's instructional program
- Quality of the school program
- Preferences of the parent or guardian
- Access to special programs and services
- Availability of transportation

In the final analysis every decision regarding placement of a homeless student must be made in the best interest of that student.

SECTION III

Eliminating Barriers to Educating Homeless Children and Youth

To obtain information about obstacles encountered by homeless children who wish to attend school, the California Department of Education has sponsored annual surveys of school districts and shelters for homeless children and youth and their families. The surveys conducted in 1988 and 1989 requested that respondents rate the importance of family-related and school-related barriers. This section contains information on school-related barriers related to (1) residency; (2) immunization; (3) registration; and (4) school records.

As noted in Section I, surveys of school districts and shelters serving homeless children and youth and their families indicated that family-related barriers posed greater obstacles to the education of homeless children and youth than did school-related barriers. However, school-related barriers, although more easily overcome, still present serious obstacles.

Surveys also indicated that lack of immunization, the most important barrier, was followed in order of importance by lack of transportation, difficulty in obtaining academic records, transfers between schools, and resolution of problems related to residency. Responses from shelter directors indicated that students' inability to meet residency requirements, the most important barrier, was followed by difficulty in transferring between schools and obtaining academic records, lack of immunization, and lack of transportation.

In establishing procedures to eliminate school-related barriers, school and district personnel must be sensitive to the conditions of homelessness and the needs of homeless children and youth. The process of assessing current procedures and practices for enrolling students and obtaining immunization and school records should result in smoother, more efficient procedures for *all* students enrolling in school. The presence of and concern for homeless children and youth

may precipitate an assessment of current practices. But if current practices are redesigned, emphasis should be placed on making the system work well for all students.

The first step in eliminating school-related barriers is a careful review of existing rules, regulations, policies, and practices at each educational level: state, county, district, and school. Policies and procedures should be interpreted and applied as liberally as possible out of concern for the health and safety of the children and youth and the rights of their parents. When a specific law or regulation is found to pose an insurmountable barrier, districts should consider using the California Department of Education's waiver process.

Residency Requirements

In response to the mandates of the McKinney Act, the Department of Education issued a legal advisory in November, 1988, clarifying state residency requirements for homeless children and youth (see Appendix C). The governing board of each school district with homeless children and youth should review its current policies and practices regarding residency requirements and ensure that they are consistent with the advisory, which states in part that:

> *Education Code* section 48200, from which the residency requirement is derived, is California's compulsory education law. It establishes that parents, legal guardians, or other persons having control or charge of a pupil must send that pupil to school. It compels the pupil to attend. The primary purpose of the statute, therefore, is to ensure that every person of school age attends school. . . . It is the State Department of Education's position that the residency requirement must be broadly and liberally construed to ensure that all school-aged children who reside in California are permitted to attend the public schools. . . . It is the State Department of Education's position that "residence" should not be confused with "domicile" for purposes of school admission and that a permanent and fixed dwelling place is not necessary to establish residency for school purposes.

The advisory also states that districts may accept indices of residence other than a street address, such as a letter from a social agency verifying that the person lives within the district boundaries, hotel or motel receipts, or an affidavit from a parent that the family is living within the district. The advisory contains a sample affidavit.

State and county coordinators of programs for the homeless must ensure that misinterpretation of residency requirements by school districts and schools does not keep homeless children and youth from attending school.

Immunization Requirements

Advisory committee members believe and the State Board concurs that the threat of communicable disease outweighs the goal of enrolling children in school as quickly as possible. Therefore, the Board recommended that no changes be made in the requirement that children be immunized before enrollment.

District policies and procedures should be examined and redesigned as necessary to ensure that children whose medical records are lost or who are in need of immunization and do not have a family doctor can be immunized immediately, whether at a local clinic, by a visiting nurse, or by the school nurse. District or school personnel should contact local shelters for families with children and youth and work with the director to establish procedures for screening and immunizing children before they come to school to register for enrollment. County departments of health also may be able to help district and school personnel ensure that children are immunized.

Each school with homeless students should have established procedures for immunization. These procedures might include such activities as scheduling regular visits of a mobile health unit to the school site, calling the district nurse to the school as needed, or arranging for community volunteers to drive families to the local clinic.

The county coordinator of programs for the homelesss, together with district educational and health personnel, should consider developing several alternative plans that schools might use to immunize chilren promptly, including the use of a traveling health clinic that visits both schools and shelters.

Registration Requirements

For children to be eligible for admission to a California school, their parents or guardians must reside within the boundaries of the school district. Consequently, many children in California who do not live with a parent or guardian cannot meet that requirement. These children may include runaway youth who live communally with other youth, those who leave their families and live with friends, or those who have been forced by their parents to live on their own. Schools admitting these youngsters could risk (1) interfering with the discovery of a missing child; (2) interfering with the legal rights and responsibilities of the parents; or (3) sanctioning the illegal activities of a minor.

The State Board of Education believes that children or youth who do not live with a parent or guardian should not be prevented from

attending school. However, the Board also believes that the issue needs careful study and that the roles and responsibilities of juvenile courts and welfare, probation, social services, and law enforcement agencies should be carefully explored before recommendations are made for changing the laws or admission guidelines.

Until provided with further legal direction, districts must establish their own policies concerning the enrollment of children and youth who are living on their own but are not emancipated minors. The Board recommends that when such children or youth wish to register at school, school personnel should attempt to contact the parent or guardian, keeping a record of each attempt. If the parent or guardian cannot be contacted, a responsible adult, such as a shelter director, a social worker, or a member of a local department of social services, should be designated as a temporary guardian. School and social service personnel should be aware that youngsters fourteen years of age or older can initiate guardianship actions. *Note:* Manuals on preparation of legal guardianships are available, as is legal assistance.

Districts should establish and maintain ongoing relationships with other local agencies, including those dealing with missing persons, to ensure that parents' rights and responsibilities are not being violated.

School Record Requirements

The McKinney Act requires that the school records of homeless children and youth be maintained and made available in a timely manner when children enter a new school or school district. Districts with homeless students should establish procedures for tracking the students as the families move within the district or to neighboring districts. Districts should ensure that students' academic records, immunization records, evaluation for special services, and other important documentation are made available to the receiving school as quickly as possible so that the students' learning can continue uninterrupted.

If the student's records are not readily available, the receiving school should have a system for the immediate assessment of the incoming student's curricular knowledge and skills so that he or she may be placed in an appropriate instructional program without delay. The receiving school might assign a counselor, program specialist, regular classroom teacher, or team of professionals to talk to the student to determine appropriate placement, including the subjects to be studied. Schools may also find a student study team approach a workable solution to placement decisions.

SECTION IV

Providing Equal Access to Educational Programs and Services

The Stewart B. McKinney Homeless Assistance Act requires that each homeless child or youth attending school be provided with services equal to those offered other students. In developing plans to provide high-quality educational programs for each student, school personnel must consider the special programs for which a student might be eligible. Included are the Elementary and Secondary Education Act, Chapter 1, Compensatory Education Program; state programs for the disadvantaged, handicapped, limited-English proficient, and gifted and talented; and vocational education, child nutrition, and before-school and after-school programs. The State Board of Education recommends a multistaged planning process to ensure that each homeless child or youth has full access to quality education. Planners at the state, county, district, and school levels should be engaged in ongoing planning to ensure an effective response to increasing knowledge about the homeless population and the individual needs of homeless children and youth.

State-Level Access

In the initial phase of implementation of the state plan, the Department of Education:

- Reviewed related regulations to determine the need for modification so that the needs of homeless students can be met more effectively
- Reviewed past and present programs relevant to students at risk
- Identified and disseminated information about homeless children and youth and practices that have proven successful with students at risk

- Identified alternative programs to address the transient nature of the student population
- Encouraged school and school district personnel to modify their school improvement, compensatory education, or school-based coordinated program plan (including budgets) so that strategies and services for meeting the specific needs of homeless children and youth could be incorporated

The Department of Education will continue to:

- Review and revise as necessary those laws, regulations, policies, and practices that may act as barriers to the enrollment, attendance, or success in school of homeless children and youth.
- Meet regularly with other state agencies providing services to homeless children and youth and their families.
- Disseminate and promote curricula, instructional materials, pedagogical practices, and alternative programs that have been successful in ensuring homeless students access to the full academic program at their schools, including special services for which they are eligible, such as those provided through Chapter 1, special education, and bilingual education programs.
- Provide state support for developing models of training programs for school personnel so that awareness of the problems of homeless children and youth might be increased.
- Sponsor conferences, training sessions, and publications for program and staff development.
- Encourage schools and school district personnel to assess the effectiveness of educational programs, services, and support activities provided homeless students through regular use of the state's program quality and compliance review processes.
- Work with local educational agencies to ensure that homeless students receive services comparable to those provided other students, including transportation, educational services, and school meal programs, and that homeless students are not stigmatized or isolated from their peers.
- Provide and monitor grants to local educational agencies with a designated liaison for the homeless to ensure that homeless children and youth enroll in and succeed in school and that homeless children and youth and their families receive the services for which they are eligible. The state coordinator and local liaison will work together to ensure that school personnel, service providers, and advocates know of the duties of the liaison.

Local-Level Access

Coordinators of homeless programs at the county and district levels receiving direct support from the Department of Education will continue to:

- Analyze the barriers preventing school access for homeless children and youth and explore ways to eliminate the barriers.
- Assist school district personnel in using the state plan to develop their own programs for educating homeless children and youth.
- Analyze the elements of successful educational programs for homeless children and youth and compile descriptions of the programs to share with school districts throughout California.
- Discuss the state plan with emergency and transitional shelter operators, providers of service to homeless children and youth, community action agencies, and other organizations likely to serve homeless children and youth in regional and local areas.
- Coordinate data-gathering and dissemination activities with state and local agencies.

During the initial phase of the implementation of the state plan, districts and schools serving homeless children and youth were encouraged to:

- Identify active programs of high quality that best meet the needs of students at risk, including homeless students. These programs should be flexible, include alternative learning strategies and opportunities, provide a safe and secure learning environment, focus on students, promote small-group activities, and emphasize parental involvement.
- Identify instructional staff members who work well with students at risk and, through in-service training, promote the effective instructional strategies used by those staff members.
- Ensure that homeless students are included in the mainstream activities at their school, including meal programs and before-school and after-school activities, and that they are not stigmatized or isolated because they are homeless.
- Adjust district budget priorities to include developing a plan, providing training, and developing policies to meet the needs of and provide equal access for all homeless students in the district.
- Require that all schools with their own plans (school improvement, compensatory education, and school-based coordinated program schools) include in the plans a description of the instructional and support services provided their homeless students.

Districts and schools should continue to:

- Provide training for district and school personnel that will prepare them to work with homeless children, their parents or guardians, and providers of services to homeless families, such as shelter directors and social service and health care personnel.
- Provide direct support to school staff as they review, adapt, and implement successful programs for students at risk, including homeless children and youth.
- Provide opportunities for instructional staff members who work with homeless children and youth to visit effective programs for such students.
- Establish means by which the instructional staff, district outreach, and case management teams can communicate with homeless children and youth and their parents or guardians to ensure that all children and youth are attending school.
- Ensure that homeless students receive all services for which they are eligible, including Chapter 1, state compensatory education, special education, bilingual education, gifted and talented education, vocational education, nutrition, transportation, and before-school and after-school programs.
- Use the local program quality and compliance review processes to assess the effectiveness of the educational program, services, and support activities provided homeless students.
- Develop a central student data base or use an existing one to keep track of students, services provided, and student records.
- Link each school serving homeless students with neighborhood agencies that provide shelter, food, clothing, medical care, assessment, tutoring, child care, and social services.
- Use a case management approach to coordinate all agency services being used by homeless families and their children. Ensure that agency personnel working at the school site are supervised by appropriately credentialed school staff.

SECTION V

Promoting, Implementing, and Monitoring the Plan

The State Board of Education recommends that all school districts with homeless children and youth develop a plan to ensure that each youngster is enrolled in school and receives all the educational services for which he or she is eligible while in school and the support services needed to stay in school. The State Board further recommends that the California Department of Education, working with county coordinators of programs for the homeless, assist school districts in developing such a plan. The Department will, therefore, continue to:

- Offer assistance in developing and writing local plans in which media such as teleconferencing are used.
- Make presentations, in conjunction with other agencies serving the homeless, on the education of homeless children and youth at regional and statewide conferences.
- Maintain a clearinghouse for materials, strategies, and plans concerning the education of homeless children and youth.
- Prepare an annual report on the education of homeless children and youth in California. The report will be used as (1) a source of information to the public; (2) an incentive to school districts and surrounding communities to continue their efforts at educating the homeless; and (3) a basis for requesting funding and proposing legislation.

The Department encourages districts, in conjunction with developing plans for educating homeless students, to:

- Identify a coordinator for the education of homeless youngsters whose primary task is to facilitate coordination among the various local agencies providing services to homeless children and youth.

- Establish an interagency task force to develop a plan to ensure that homeless children in the district are able to enroll in, attend, and achieve success in school.
- Empower the task force to promote the plan within the school district and the community and to oversee the implementation of the policies and procedures necessary to implement the plan.
- Monitor the implementation of the plan through established review procedures to ensure that all homeless youngsters have equal access to a quality education.

APPENDIX A

The Stewart B. McKinney Homeless Assistance Act as Amended November 29, 1990

NOTE: The 1990 amendments are indicated by *italics.*

Section 721. Statement of Policy.

It is the policy of the Congress that—

(1) each State educational agency shall assure that each child of a homeless individual and each homeless youth have access to a free, appropriate public education which would be provided to the children of a resident of a State and is consistent with the State school attendance laws;

(2) in any State that has a residency requirement as a component of its compulsory attendance laws *or other laws, regulations, practices, or polices that may act as a barrier to the enrollment, attendance, or success in school of homeless children and homeless youth, the State will review and undertake steps to revise such laws, regulations, practices, or policies* to assure that the children of homeless individuals and homeless youth are afforded a free and appropriate public education; and

(3) homelessness alone should not be sufficient reason to separate students from the mainstream school environment.

Section 722. Grants for State *and Local* Activities for the Education of Homeless Children and Youth.

(a) GENERAL AUTHORITY.—The Secretary of Education is, in accordance with the provisions of this section, authorized to make grants to States to carry out the activities described in subsections (c), (d), and (e).

(b) ALLOCATION.—From the amounts appropriated for each fiscal year pursuant to subsection (g), the Secretary shall allot to each State an amount which bears the same ratio to the amount appropriated in each such year as the amount allocated under *part A of chapter 1 of title I* of the Elementary and Secondary Education Act of 1965 to the local educational agencies in the State in that year bears to the total amount allocated to such agencies in all States, except that no State shall receive less than $50,000. *The Secretary shall reserve 0.1 percent*

of the amount appropriated for fiscal year to be allocated by the Secretary among the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 90-658), according to their respective need, as determined by the Secretary, except that no such territory shall receive less in fiscal year 1991 than it received in fiscal year 1990. The Secretary may also reserve not to exceed 1 percent of the amount appropriated for each fiscal year for programs for Indian students served by schools funded by the Secretary of the Interior, as determined under the Indian Self-Determination and Education Assistance Act consistent with the purposes of this Act. As used in this subsection, the term 'State' shall not include the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or Palau.

(c) AUTHORIZED ACTIVITIES.—Grants under this section shall be used—

(1) to carry out the policies set forth in section 721 in the State;

(2) to provide activities for and services to homeless children and homeless youths that enable such children and youths to enroll in, attend, and achieve success in school:

(3) to establish or designate an Office of Coordinator of Education of Homeless Children and Youth in accordance with subsection (d);

(4) to prepare and carry out the State plan described in subsection (e);

(5) to develop and implement programs for school personnel to heighten awareness of specific problems of the education of homeless children and youth; and

(6) if amounts appropriated for the applicable fiscal year exceed the amount appropriated for fiscal year 1990 under this section, to provide grants to local educational agencies for purposes of this section, and if such amounts appropriated do not exceed the amount appropriate for fiscal year 1990, the State education agency, at the discretion of such agency, may provide such grants.

(d) FUNCTIONS OF THE OFFICE OF COORDINATOR.—The Coordinator of Education of Homeless Children and Youth established in each State shall—

(1) *once every two years* gather data on the number and location of homeless children and youth in the State, and such data gathering shall include the *number of homeless children and homeless youths enrolled in schools in the State, determined through random sampling or other statistical methods that ensure that such children and youths are not overtly identified as being homeless, the* nature and extent of problems of access to, and placement of, homeless children and homeless youth in elementary and secondary schools, the difficulties in identifying the special needs of such children, *and any progress made by the State*

educational agency and local educational agencies within the State in addressing such problems and difficulties;

(2) develop and carry out the State plan described in subsection (e);

(3) prepare and submit to the Secretary not later than December 31, *1991, and on December 31 of every second year thereafter* a report on the data gathered pursuant to paragraph (1);

To the extent that reliable current data is available in the State, each coordinator described in this subsection may use such data to fulfill the requirements of paragraph (1).

(4) facilitate coordination between the State education agency, the State social services agency, and other agencies providing services to homeless children and youth and their families; and

(5) develop relationships and coordinate with other relevant education, child development, or preschool programs and providers of services to homeless children, homeless families, and runaway and homeless youths (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youths) in order to improve the provision of comprehensive services to homeless children and homeless youths and the families of such children and youths.

(e) STATE PLAN.—

(1) Each State shall adopt a plan for the education of each homeless child or homeless youth within the State which will contain provisions designed to—

(A) authorize the State educational agency, the local educational agency, the parent or guardian of the homeless child, the homeless youth, or the applicable social worker to make the determinations required under this section;

(B) provide procedures for the *prompt* resolution of disputes regarding the educational placement of homeless children and youth;

(C) develop programs for school personnel (including principals, attendance officers, teachers, and enrollment personnel), to heighten the awareness of such personnel of the specific educational needs of runaways and homeless youths; and

(D) ensure that homeless children and homeless youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local food programs;

(E) ensure that homeless children and homeless youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local before- and after-school care programs and provide for the disclosure of data concerning the participation of such children in such programs in plans submitted by the State after the initial plan of the State;

(F) address problems set forth in the report provided to the Secretary under subsection (d)(3);

(G) address problems with respect to the education of homeless children and homeless youths including problems caused by

(i) transportation issues; and

(ii) enrollment delays which are caused by—

(I) immunization requirements;

(II) residency requirements;

(III) lack of birth certificates, school records, or other documentations; or

(IV) guardianship issues;

(H) demonstrate that the State and local educational agencies in the State have developed and will review and revise policies to remove barriers to the enrollment and retention of homeless children and homeless youths in schools of the State; and

(I) ensure that the State educational agency and local educational agencies within the State will adopt policies and practices to ensure that homeless children and homeless youths are not isolated or stigmatized.

(2) Each plan adopted under this subsection shall assure to the extent practicable under requirements relating to education established by State law, that local educational agencies within the State will comply with the requirements of paragraphs (3) through (9).

(3) (A) The local educational agency of each homeless child and each homeless youth shall either—

(i) continue the child's or youth's education in the school of origin

(I) for the remainder of the academic year, or

(II) in any case in which a family becomes homeless between academic years, for the following academic year, or

(ii) enroll the child or youth in any school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend;

whichever is in the child's best interest or the youth's best interest.

(B) In determining the best interests of the child or youth for purposes of making a school assignment under paragraph (A), consideration shall be given to a request made by a parent regarding school selection.

(C) For purposes of this paragraph, the term "school of origin" shall mean the school that the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.

(4) The choice regarding placement shall be made regardless of whether the child or youth is living with the homeless parents or has been temporarily placed elsewhere by the parents.

(5) Each homeless child shall be provided comparable services offered to other students in the school selected according to the provisions of paragraph (3), including *transportation services*, educational services for which the child meets the eligibility criteria, such as compensatory educational programs for the disadvantaged, and educational programs for the handicapped and for students with limited English proficiency; programs in vocational education; programs for the gifted and talented; and school meal programs.

(6) *Any record ordinarily kept by the school, including immunization records, academic records, birth certificates, guardianship records, and evaluations for special services or programs* of each homeless child or youth shall be maintained—

(A) so that the records are available, in a timely fashion, when a child or youth enters a new school district; and

(B) in manner consistent with section 438 of the General Education Provisions Act.

(7) Each local educational agency serving homeless children or youth that receives assistance under this title shall coordinate with local social service agencies, and other agencies or programs providing services to such children or youth and their families.

(8) Each local educational agency that receives assistance under this title shall designate a homelessness liaison to ensure that—

(A) homeless children and youth enroll and succeed in the schools of that agency; and

(B) homeless families, children and youth receive educational services for which they are eligible, and referrals to health care services, dental services, mental health services, and other appropriate services.

State coordinators and local educational agency liaisons shall inform school personnel, service providers and advocates working with homeless families of the duties of the liaisons.

(9) Each State and local educational agency shall review and revise any policies that may act as barriers to the enrollment of homeless children and youth in schools selected in accordance with paragraph (3). In reviewing and revising such policies, consideration shall be given to issues concerning transportation, requirements of immunization, residency, birth certificates, school records, or other documentation, and guardianship. Special attention shall be given to ensuring the enrollment and attendance of homeless children and youths who are not currently attending school.

(f) APPLICATION.—No State may receive a grant under this section unless the State educational agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) There are authorized to be appropriated *$50,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.*

(2) The State educational agency may reserve not to exceed 5 percent of the amount received by such agency under this section in each fiscal year, or an amount equal to the amount received by such State agency for State activities under this section in fiscal year 1990, whichever is greater, to conduct activities under paragraphs (1) through (5) of subsection (c).

(3) (A) In any fiscal year in which the amount appropriated under paragraph (1) does not equal or exceed $100,000,000 the State educational agency shall use funds not otherwise reserved under paragraph (2) to award grants to local educational agencies in accordance with subsection (c)(6).

(B) In any fiscal year in which the amount appropriated under paragraph (1) equals or exceeds $100,000,000, the State educational agency shall use funds not otherwise reserved under paragraph (2) to allocate to each local educational agency an amount that bears the

same ratio to amount not otherwise reserved as the aggregate amount received by such local educational agency under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 for such fiscal years bears to the aggregate amount received by all local educational agencies in the State for purposes of carrying out such part for such fiscal year.

(4) Sums appropriated in each fiscal year shall remain available for the succeeding fiscal year.

Section 723. *Local Educational Agency Grants for the Education of Homeless Children and Youth.*

(a) GENERAL AUTHORITY.—

(1) Grantees and purpose of grants.—The State educational agency shall in accordance with section 722(c)(6) and from amounts made available to such agency under section 722, make grants to local educational agencies for the purpose of facilitating the enrollment, attendance and success of homeless children and youths in schools.

(2) Use of grants.—Unless otherwise specified, services under paragraph (1) may be provided through programs on school grounds or at other nonsectarian facilities. Where services are provided through programs on school ground, such services may also be made available to children or youths who are determined by the local educational agency to be at risk of failing in or dropping out of schools, except that priority for such services shall be given to homeless children and homeless youths. To the maximum extent practicable, services shall be provided through existing programs and mechanisms that integrate homeless individuals with nonhomeless individuals.

(3) Regular academic program.—Services provided under this section are not intended to replace the regular academic program.

(b) AUTHORIZED ACTIVITIES.—

(1) Primary activities.—Not less than 50 percent of amounts provided under a grant under this section shall be used to provide tutoring, remedial education services, or other education services to homeless children or homeless youths.

(2) Related activities.—Not less than 35, nor more than 50, percent of amounts provided under a grant under this section may be used for activities that may include—

(A) the provision of expedited evaluations of the strengths and needs of homeless children and homeless youths, including needs and eligibility for programs and services (including gifted and talented programs, special education programs, programs for students with limited English proficiency, and remedial services);

(B) professional development for educators and other school personnel that is designed to develop awareness and sensitivity to the needs of homeless children and homeless youths and the rights of such children and youths under this Act;

(C) the provision of referral services to homeless children and homeless youths for medical, dental, mental, and other health services;

(D) the provision of assistance to defray the excess cost of transportation for students not provided under section 722(e)(5) and not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 722(e)(3);

(E) the provisions of developmentally appropriate early childhood programs for preschool age children;

(F) the provision of before- and after-school and summer programs for homeless children or homeless youths in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities;

(G) where necessary, the payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll homeless children or homeless youths in school, including birth certificates, immunization records, academic records, guardianship records, and evaluation for special programs or services;

(H) the provision of parent education and training to the parent of homeless children and homeless youths about the rights of and resources available to such children and youths;

(I) the development of coordination between schools and agencies providing services to homeless children and homeless youths;

(J) the provisions of counseling, social work and psychological services, including violence counseling, and referrals for such services;

(K) activities to address the particular needs of homeless children and homeless youths that may arise from domestic violence;

(L) activities to develop and implement programs for school personnel to heighten the awareness of such personnel of the specific educational needs of runaway and homeless youths;

(M) the adaptation of space and the purchase of supplies for nonschool facilities made available under subsection (a)(2) to provide services under this subsection;

(N) the provision of school supplies to be distributed at the shelter or temporary housing facilities; and

(O) the provision of such other extraordinary or emergency assistance determined by the Secretary as essential to enable homeless children and youth to attend school.

(3) Eligibility.—No State or local educational agency may receive a grant under this section unless the State in which the agency is located has submitted a State plan as required by section 722(e).

(c) AWARDS.—

(1) Basis.—Except as provided in section 722(g)(3)(B), from amounts appropriated for each fiscal year under section 722(g), the State educational agency may award grants under this section to local educational agencies submitting an application under subsection (d) on the basis of the need of such agencies,

(2) Determination.—In determining need under paragraph (1), the State educational agency may consider the number of homeless children and homeless youth enrolled in preschool, elementary, and secondary

schools within the area served by the agency, and shall consider the needs of such children and youth, and the ability of the agency to meet such needs. Such agency may also consider—

(A) the extent to which the proposed use of funds would facilitate the enrollment, retention, and educational success of homeless children and youth;

(B) the extent to which the application reflects coordination with other local and State agencies that serve homeless children and youth, as well as the State Plan required by section 722(e);

(C) the extent to which the applicant exhibits in the application and in current practice a commitment to education of all homeless children and youth in its jurisdiction; and

(D) other criteria as the agency determines appropriate.

(d) APPLICATION.—

(1) In general.—A local educational agency that desires to receive a grant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by such information as the State agency may reasonably require according to guidelines issued by the Secretary. Each such application shall include—

(A) a description of the services and programs for which assistance is sought and the problems sought to be addressed through the provision of such services and programs;

(B) assurances that the applicant complies with or will use requested funds to come into compliance with paragraphs (3) through (9) of section 722(e);

(C) an assurance that assistance under the grant will supplement and not supplant funds used before the award of the grant for purposes of providing services to homeless children and homeless youths; and

(D) a description of policies and procedures that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and homeless youth.

(3)[sic] Term of Awards.—Grants awarded under this section shall be for terms not to exceed 2 years.

(e) REPORTS.—Each State educational agency that receives a grant under this section for any fiscal year shall, as part of the plan of the State submitted under section 722(c)(4), provide to Secretary data concerning—

(1) the number of homeless children and homeless youths served with assistance provided under the grant under this section; and

(2) a description of the success of the program under this section in allowing homeless children and homeless youths to enroll in, attend, and succeed in school.

Section 724. National Responsibilities

(a) GENERAL ACCOUNTING OFFICE.—The Comptroller General of the United States shall prepare and submit to the Congress

not later than June 30, 1988, a report on the number of homeless children and youth in all States.

(b) SECRETARIAL RESPONSIBILITIES.—

(1) The Secretary shall monitor and review compliance with the provisions of this subtitle in accordance with the provisions of the General Education Provisions Act. *In reviewing the State plans submitted by the State educational agencies under section 722(e), the Secretary shall evaluate whether State laws, policies, and practices described in such plans adequately address the problems of homeless children and homeless youth relating to access to education and placement as described in such plans.*

(2) (A) The Secretary, in consultation with persons and organizations that are knowledgeable about the needs of homeless children and youth, shall through the awarding of a grant, or through entering into a contract or cooperative agreement, conduct a study to determine the best means of identifying, locating, and counting homeless children and youth for the purpose of this subtitle. Such persons and organizations to be consulted shall include representatives of State coordinators, local educational agencies with substantial numbers of homeless children and youth, local government agencies with responsibility for administering homeless shelters, and advocacy groups representing the interests of homeless children and youth. The Secretary shall also consult with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, as appropriate, in carrying out this paragraph.

(B) The study conducted under subparagraph (A) shall consider—

(i) the appropriate definition of the terms 'homeless child' and 'homeless youth';

(ii) the experience of the 1990 Census in identifying, locating, and counting homeless children and youth;

(iii) appropriate methodologies for identifying, locating, and counting such children and youth, including using schools, shelters, and other social service agencies to collect data; and

(iv) the projected accuracy of the methodologies identified in clause (iii), and the costs associated with the use of each methodology;

to determine the number of homeless children and youth in the United States to create as accurate an account as possible of the number, location, and living circumstances of such children and youth, including the number of such children and youth that are attending school regularly, part-time, or not at all, and reasons for the nonattendance of such children and youth.

(C) (i) Not later than 240 days after the date of enactment of this paragraph, the Secretary shall prepare and submit, to the appropriate committees of Congress, a report containing the results of the study conducted under subparagraph (A) and estimated costs of making the estimates required under clause (ii).

(ii) Not later than December 1, 1992, the Secretary, in consultation with the appropriate committees of Congress, and through the use of appropriate statistical methodology, shall, through a grant,

contract or cooperative agreement, determine accurate estimates of the number of homeless children and youth throughout the Nation and the number of such children and youth attending school.

(D) The Secretary may reserve not more than $250,000 from amounts appropriated under section 722(g) in 1991 to carry out the study required under subparagraph (A).

(E) There are authorized to be appropriated such sums as may be necessary in 1992 to prepare the report and estimates required under subparagraph (C).

(3) The Secretary shall provide such support and technical assistance to the State educational agencies as is required by such agencies to carry out their responsibilities under this subtitle.

(4) The Secretary shall prepare and submit a report to the Congress on the programs and activities authorized by this subtitle at the end of each fiscal year.

(5) The Secretary shall compile and submit a report to the Congress containing the information received from the State pursuant to section 722(d)(3) within 45 days of its receipt.

(5)[sic] The Secretary shall conduct evaluation and dissemination activities of programs designed to meet the educational needs of homeless elementary and secondary school students.

(6) The Secretary shall require applications for grants under this subtitle to be submitted to the Secretary not later than the expiration of the 60-day period beginning on the date the funds are appropriated for purposes of making such grants and shall make such grants not later than the expiration of the 120-day period beginning on such date.

(7) The Secretary, based on the information received from the State and information gathered by the Secretary under paragraph (1), shall determine the extent to which State educational agencies are ensuring that each homeless child and homeless youth has access to a free appropriate education as described in section 721(1).

Section 725. Reports.

Not later than 2 years after the date of enactment of this subsection, the Comptroller General of the United States, in consultation with the Secretary, shall prepare and submit to the appropriate Committees of Congress a report containing the findings of a study conducted to determine the most effective methods of distributing funds provided under this subtitle to State educational agencies and local educational agencies.

Section 726. Definitions.

As used in this subtitle—

(1) the term "Secretary" means the Secretary of Education; and

(2) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

APPENDIX B

Legal Advisory

LO: 5-88

Legal Advisory
California Department of Education

Contact: Joyce Eckrem
Staff Counsel
Phone: (916) 657-2453

To: County and District Superintendents of Schools;
Directors of Welfare and Attendance

From: Joseph R. Symkowick, General Counsel
Legal and Audits Branch

Subject: **Application of the Residency Requirements for Homeless Children and Youth**

This advisory is designed to assist districts with the interpretation of California's residency laws as they apply to admission to the public schools. Its purpose is to suggest ways of determining residency so as not to exclude homeless children from the public schools. It should not be generalized to populations other than the homeless.

In 1987 Congress enacted Title VII, subtitle B, of the McKinney Homeless Assistance Act (Act) to address the educational needs of homeless children.[1] Congress stated that:

> The purpose of this subtitle is to make plain the intent and policy of Congress that every child of a homeless family and each homeless youth be provided the same opportunities to receive free, appropriate educational services as children who are residents of the state. No child or youth should be denied access to any educational services simply because he or she is homeless. Of particular concern are potential disputes between school districts over the placement of these children, which could result in the homeless being denied an education in any school district.[2]

[1]42 U.S.C. sections 11432—11433.

[2]House Conf. Report No. 100-174, lOOth Cong., lst Sess.; reprinted in [1987] U.S. Code Cong. & Admin. News, 362, 472.

To carry out the purposes of this Act, Congress has made grants to state educational agencies to begin the planning processes. It is anticipated that, in future years, funds will also be available for allocation to local educational agencies.

As a recipient of these federal funds, California's plan must ensure that homeless youth are able to participate in education, in their school district of origin or in the school district in which the pupil is living, whichever is in the best interests of the child. The state plan must also contain a mechanism to resolve disputes which arise between districts over the responsibility to educate homeless children. The Act requires that "any state that has a residency requirement as a component of its compulsory school attendance laws . . . will review and undertake steps to revise such laws to assure that homeless youth are afforded a free and appropriate public education."[3] California's compulsory education law[4] has long been interpreted as incorporating a residency requirement[5] requiring the pupil to attend school in the district wherein the pupil's parent or legal guardian resides.

Explicit exceptions to the residency requirement are contained in various Education Code sections.[6] Interpretive exceptions have historically been made for children who live with relatives or other responsible adults, other than their parents or legal guardians.[7]

There is, however, no explicit residency exception for homeless children. As the residency law is typically applied, if the parents cannot provide proof of a street address within the district, the child is denied admission. Furthermore, because the term "residency" is ill-defined and because of fiscal and desegregation concerns, school officials are often reluctant to accept temporary addresses, post office box addresses, and similar indices of residency. Yet, requiring proof of an actual street address may be an overly restrictive interpretation of the residency requirement[8] and may deny otherwise eligible pupils their right to receive a public education.

This advisory attempts to clarify the purpose and meaning of the "residency" requirement and how it can be applied to effect the legislative purpose without unnecessarily denying homeless pupils access to public education.

1. *What does residency mean for purposes of admission to the public schools?*

"Residency" should not be construed so as to require a permanent and fixed home to which one intends to return in perpetuity, but rather as:

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[3]42 U.S.C. section 11431.

[4]Education Code section 48200.

[5]See, for example, *Laton Joint Union High School* v. Armstead (1933) 130 Cal. App. 628; 11 OPS. CAL. ATTY. GEN. 59; 26 OPS. CAL. ATTY. GEN. 269; 67 OPS. CAL. ATTY. GEN. 452.

[6]See, for example, section 46605 (newly formed districts); section 48204 (interdistrict attendance); sections 56156.5 and 56167 (redefining residency requirements for special populations).

[7]11 OPS. CAL. ATTY. GEN. 59.

[8]California Education Code Section 2 requires that the code "be liberally construed, with a view to effect its objects and to promote justice."

Personal presence at some place with no present intention of definite and early removal and with the purpose to remain for an undetermined period, but not necessarily with a design to stay permanently. [See discussion below.]

Education Code Section 48200, from which the residency requirement is derived, is California's compulsory education law. It establishes that parents, legal guardians, or other persons having control or charge of a pupil must send that pupil to school. It compels the pupil to attend. The primary purpose of the statute, therefore, is to ensure that every person of school age attends school.[9] Thus, it should be liberally construed to effect this purpose.

By reviewing the exceptions to the residency requirement (e.g., Section 48204, Interdistrict Attendance), another purpose—to ensure orderly and predictable attendance patterns within the various districts—is evident.[10] A similar purpose is to limit the benefit of a free public education to those who reside within California. But even these exceptions are designed to ensure that children attend school. They are not designed to exclude children or to make admission prohibitively cumbersome.[11]

Thus, it is the State Department of Education's position that the residency requirement must be broadly and liberally construed to ensure that all school-aged children who reside in California are permitted to attend the public schools.

The word "residence" is a term with no definite legal meaning. It is subject to varying constructions, depending upon the purposes of the particular statute.[12]

Sometimes "residence" is used in the legal sense of "domicile." Black's Law Dictionary, Fifth Edition, distinguishes these two terms as follows:

> Residence. Personal presence at some place of abode with no present intention of definite and early removal and with purpose to remain for undetermined period . . . but not necessarily with design to stay permanently. . . .
>
> Residence means living in a particular locality, but domicile means living in that locality with the intent to make it a fixed and permanent home. Residence simply

[9]11 OPS. CAL. ATTY. GEN. 59, 60.

[10]*Laton Joint Union High School Dist.* v. *Armstead, supra,* 130 Cal.App. 628. The legislative and interpretive history of the compulsory education law indicates that the legislature intended that districts have some way of restricting admission to the public schools. Prior to 1955, the Attorney General interpreted the residency requirement as allowing districts to exclude children from school attendance if the child was living with other than the parent or legal guardian for the sole purpose of attending school there (11 OPS. CAL. ATTY. GEN. 59). In 1955, the legislation was amended, replacing the word "resides" with the word "lives." The Attorney General interpreted this amendment to mean that the pupil was eligible to attend the district wherein he lived without an interdistrict agreement and without regard to his motive or intent for living in the district. (26 OPS. CAL. ATTY. GEN. 269). In 1977, the statute was again amended to restore the term "resides." It is of interest that this latter amendment coincides in time with much of the desegregation litigation, and was probably intended to restore the prohibition against living with friends or relatives simply for the purpose of attending the public schools there.

[11]Further evidence that the primary purpose of the compulsory education law is to ensure school attendance is that sections 48291–48295 provide for penalties for non-attendance.

[12]*Nadler* v. *California Veterans Board* (1984) 152 Cal.App.3d 707, 715 n.5; *Burt* v. *Scarborough* (1961) 56 C.2d 817, 821.

requires bodily presence as an inhabitant in a given place, while domicile requires bodily presence in that place and also an intention to make it one's domicile [citations omitted]. "Residence" is not synonymous with "domicile," though the two terms are closely related; a person may have only one legal domicile at one time, but he may have more than one residence [citations omitted]. It is the State Department of Education's position that "residence" should not be confused with "domicile" for purposes of school admission and that a permanent and fixed dwelling place is not necessary to establish residency for school purposes.

2. *Must a pupil provide evidence of a permanent home/street address in order to enroll in a public school?*

No. Although this is a permissible method for districts to determine residency, it should not be applied routinely so as to exclude children from school attendance. Section 17.1 of the Welfare and Institutions Code states, in part, that the child's residence is "the residence of the parent with whom a child maintains his or her place of abode" (emphasis added). Black's Law Dictionary, Fifth Edition, defines "abode" as "one's home; habitation; place of dwelling; or residence. . . . Living place impermanent in character." A temporary shelter would certainly meet the test of either a residence or an abode. Other less traditional habitats, such as vehicles or tents, could also meet the definitions of residence or abode. The important factors are that the child is personally present somewhere within the district with a purpose to remain, but not necessarily to remain permanently. The intent of the law is to keep children in school, not to exclude them under the definition of residency.

3. *What indices of residence, other than a street address, may a district accept?*

Some districts accept letters from a social service agency verifying that the person does in fact live within the district boundaries. Hotel or motel receipts are also accepted by some districts. Although Post Office Box numbers are not favored, they could be combined with an affidavit by the parent declaring that the family is homeless and lives within the district. Where the family may be living on the street, it is permissible to accept an affidavit from the parent that they are living with in the district with the purpose of remaining there.[13]

Where the pupil has no family (e.g., runaways), but wishes to attend school, it is recommended that the school district work cooperatively with either the social service agency or a legal advocacy group.

4. *Must the original district serve a pupil whose family has temporarily been housed in another district but states the intention of returning to the original district?*

Although the above analysis of residence would seem to relieve the original district of the obligation to serve the pupil, the federal law requires a determination of the child's best interests. The federal law states that:

[13]Some proof of residency is necessary to prevent abuse of desegration, interdistrict, and assignment policies. However, districts should look for alternatives to avoid excluding those who are in the unfortunate situation of being homeless.

(3) The local educational agency of each homeless child or youth shall either

> (A) continue the child's or youth's education in the school district of origin for the remainder of the school year; or (B) enroll the child or youth in the school district where the child is actually living, *whichever is in the child's best interest or the youth's best interest.*[14] [Emphasis added]

If it is clear that the relocation is temporary, and if distance factors are not prohibitive, the original district ought to make arrangements to continue serving the pupil through interdistrict agreement procedures[15] if other factors indicate that it is in the best interests of the pupil.[16]

There are numerous other issues surrounding the education of homeless children and youth that are not addressed by this legal advisory. This advisory is intended solely to reassure districts that it is not unlawful to serve children who have no home. The State Department of Education will be working with an advisory committee to address such issues as timely receipt of health records and procedures for dealing with immunization issues, assignment, labeling, identification and reporting, and run-away youth. Further program advisories may be developed and sent to school districts as determined necessary or helpful.

If you have any questions regarding the legal residency issues raised herein, please contact Joyce Eckrem, Staff Counsel, at 916-657-2453. Any policies which your district implements should, of course, be reviewed by your own counsel.

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[14]42 U.S.C. section 11432(e)(3).

[15]Education Code section 46600.

[16] The federal district court in *Orozco by Arroyo* v. *Sobol* (1987) 674 F.Supp. 125, ruling on a preliminary injuction while the merits were being argued, ordered the school district wherein the temporary residence was located to serve the pupil. Distance, duration, and the nebulous intent of the parent influenced this result.

Sample Affidavit

I, _____ declare as follows:
(Name)

1. I am the parent/legal guardian of _____ who is of school age and is seeking admission to _____ School District.
2. Since _____ 19____ our family has not had a permanent home; however, we have been residing within the _____ School District boundaries and intend to remain herein.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct and of my own personal knowledge and that if called upon to testify I would be competent to testify thereto.

Date:_____ _____
(Signature)

I regularly contact and receive my mail at:
Name _____
Address _____
Phone Number _____

I can be reached for emergencies at:

_____

_____

_____

APPENDIX C

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